

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA

Petitioner,

v.

JAMES REED HARRIS,

Defendant.

NO. CR88-60JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for Nunc Pro Tunc Appeal.

Having considered the entirety of the record and files herein, the Court finds and rules as follows:

Defendant's motion is properly construed as a 2255 motion, and constitutes a second or successive 2255 motion.

Title 28 U.S.C. §2255 prohibits the filing of a second or successive 2255 motion absent certification from the Ninth Circuit Court of Appeals. 28 U.S.C. §2244(b)(3)(A). Defendant has failed to receive authorization for filing a second or successive 2255 petition.

Defendant's alternative argument that his original 2255 motion filed December 15, 1989 and subsequently withdrawn by him remains pending lacks merit. Defendant filed notice of withdrawal of

1 his 2255 motion, thereby abandoning it, before any response by the government or ruling by the  
2 Court was forthcoming. Accordingly, it is hereby

3 ORDERED that Defendant's motion is DISMISSED.

4 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of  
5 record.

6 DATED this 31<sup>st</sup> day of May, 2005.

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8 /s JACK E. TANNER

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10 JACK E. TANNER  
11 SR. UNITED STATES DISTRICT JUDGE  
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